

Application No. 10/634,636
Responsive to Office action of July 12, 2004
Filed on August 9, 2004

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REMARKS

The Examiner is thanked for the review of Applicants' application.

Applicants elect group I with traverse.

Specifically, the Examiner stated, "In the instant case the memory device as claimed can be made by different processes. As one example, the body of the memory device can be made by different processes to form either single-crystalline or poly-crystalline or amorphous structures."

However, it is noted that independent claim 38 does not specifically require a process choice of using either single-crystalline or poly-crystalline or amorphous structures. In fact, since dependent claim 45 specifically describes "a semiconducting material of single-crystalline, poly-crystalline or amorphous structure," all of these different processes are included in claim 38 by well established principles of claim construction. Accordingly, the Examiner's example does not indicate a difference in the claimed device of group I and the claimed method of group II.

Neither the independent claim of group I nor the independent claim of group II is limited to a memory body that has a single-crystalline, poly-crystalline, or amorphous structure.

Therefore, the Examiner has not made a *prima facie* case for distinctness.

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Applicants believe the above discussion is fully responsive to the Restriction Requirement. If for any reasons the Examiner believes a telephone conference would in any way expedite resolution of the issues raised in this appeal, the Examiner is invited to telephone the undersigned.

Respectfully submitted,
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